

REMARKS

Claims 1-48 are pending in the above-referenced application. The Examiner has issued a restriction requirement that requires Applicants to elect one of groups I-II as defined in the Office Action mailed on February 13, 2006. Accordingly, Applicants hereby provisionally elect, with traverse, Group I encompassing claims 1-16.

Traversal

The criteria for restriction is set forth in section 803 of the MPEP as follows:

There are two criteria for a proper requirement for restriction between patentably distinct inventions:

- (A) The inventions must be independent or distinct; and*
- (B) There must be a serious burden on the examiner if restriction is required. (emphasis added) (Internal citations omitted).*

Significantly, Examiner passes no judgment on whether examination of all of the claims in the present application would impose a "serious burden." Applicants respectfully submit there is none. Rather, Examiner alleges that the variously defined inventions are "distinct" in satisfaction of only the first prong of this two prong test. However, as §803 makes clear, independent or distinct inventions must still be examined collectively, i.e., not restricted, unless such examination would impose a serious burden on the examiner.

Because the Examiner has made no showing of a "serious burden," Applicants respectfully request that all of the claims be examined on the merits. Here the MPEP is clear:

If the search and examination of the entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions. (MPEP §803) (emphasis added)

If Examiner maintains the present restriction requirement, Applicants request that the corresponding method-of-treatment claims (i.e. claims 17-48) be rejoined into the application to the extent that such claims have the same limitations as any allowed product claim. Under such a circumstance, this rejoinder is required:

...if applicant elects claims directed to the product, and a product claim is subsequently found allowable, withdrawn process claims which depend from or

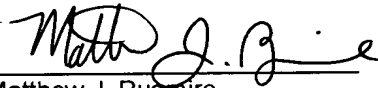
otherwise include all the limitations of the allowable product claim will be rejoined.
(MPEP §821.04)

CONCLUSION

Because the Examiner has not established that it would be a serious burden to examine claims 1-48 together, Applicants respectfully request that Examiner reconsider and withdraw the present restriction requirement. If Examiner maintains the present restriction requirement, Applicants request that the method-of-treatment claims (i.e. claims 17-48) be rejoined upon the allowance of any of the product claims (i.e. claims 1-16). If any fees are due in connection with this response, including the fee for any required extension of time (for which Applicants hereby petition), please charge such fees to Deposit Account No. 500329.

Respectfully submitted,

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